S rial No.: 09/402,232
Grp./A.U.: 1623

REMARKS/ARGUMENTS

Claims 25-37 are pending in this application.

Favorable consideration and allowance of the instant application is respectfully requested in view of the following remarks. Original claims 11-24 have been canceled and replaced with new claims 25-37. No new matter is thought to be introduced thereby.

The claims have been previously rejected under 35 U.S.C. § 103(a) as being obvious over Carduck et al., US 5,554,741. Applicant respectfully submits that the Carduck reference fails to render the claimed invention obvious for the following reasons.

The Carduck reference at col. 2, lines 30-34 discloses that its glucose sirup/fatty alcohol suspension is to be dried at a temperature of from 120 to 180°C. The problem with this is that as water is removed from the glucose sirup/fatty alcohol suspension, the melting point of the glucose sirup present therein increases. When there is virtually no water present therein, the melting point of said glucose sirup is at about 120°C. Hence, Carduck discloses drying the glucose sirup/fatty alcohol suspension at a temperature **above the melting point** of the glucose sirup. This in turn causes the glucose sirup to turn brown in color, i.e., become discolored which is a phenomenon the present invention is attempting to avoid.

Consequently, based on a reading of the Carduck reference, Applicant submits that it would not be obvious to dry the glucose sirup/fatty alcohol suspension over the claimed temperature gradient, i.e., drying the suspension gradually between a temperature range of from about 70 to 120° to ensure that it does not turn brown, since there is no teaching or suggestion within the Carduck reference to do so. Carduck does not even address the potential for melting the glucose sirup and thereby

discoloring it. In further support of this position, Applicant would like to note that it is well settled that in order to establish a prima facie case of obviousness under 35 U.S.C. § 103 based upon a single reference, the Office must show an art-recognized motivation to modify the reference in the manner asserted by the Office. In re Gordon, 221 USPQ 1125, 1127 (Fed. Cir. 1984). Since this reference clearly fails to contain any teaching or suggestion which would motivate one skilled in the art of modify the temperature at which the glucose sirup/fatty alcohol suspension is dried at in order to avoid it turning brown, this reference should not be relied upon to establish a prima facie case of obviousness against the claimed invention.

Prompt examination of the instant application in view of the amendments made herein is respectfully requested.

Respectfully submitted,



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